

(4) An established attorney-client relationship.

(b) *Addendum proceeding.* A request for attorney fees will be decided in an addendum proceeding.

(c) *Place of filing.* Where the initial decision in the proceeding on the merits was issued by a judge in a MSPB regional or field office, a motion for attorney fees must be filed with the regional or field office that issued the initial decision. Where the decision in the proceeding on the merits was an initial decision issued by a judge at the Board's headquarters or where the only decision was a final decision issued by the Board, a motion for attorney fees must be filed with the Clerk of the Board.

(d) *Time of filing.* A motion for attorney fees must be filed as soon as possible after a final decision of the Board but no later than 60 days after the date on which a decision becomes final.

(e) *Service.* A copy of a motion for attorney fees must be served on the other parties or their representatives at the time of filing. A party may file a pleading responding to the motion within the time limit established by the judge.

(f) *Hearing; applicability of subpart B.* The judge may hold a hearing on a motion for attorney fees and may apply appropriate provisions of subpart B of this part to the addendum proceeding.

(g) *Initial decision; review by the Board.* The judge will issue an initial decision in the addendum proceeding, which shall be subject to the provisions for a petition for review by the Board under subpart C of this part.

[63 FR 41179, Aug. 3, 1998, as amended at 65 FR 24381, Apr. 26, 2000]

§ 1201.204 Proceedings for consequential damages and compensatory damages.

(a) *Time for making request.* (1) A request for consequential damages or compensatory damages must be made during the proceeding on the merits, no later than the end of the conference(s) held to define the issues in the case.

(2) The judge or the Board, as applicable, may waive the time limit for making a request for consequential damages or compensatory damages for good cause shown. The time limit will

not be waived if a party shows that such waiver would result in undue prejudice.

(b) *Form and content of request.* A request for consequential damages or compensatory damages must be made in writing and must state the amount of damages sought and the reasons why the appellant or respondent believes he or she is entitled to an award under the applicable statutory standard.

(c) *Service.* A copy of a request for consequential damages or compensatory damages must be served on the other parties or their representatives when the request is made.

A party may file a pleading responding to the request within the time limit established by the judge or the Board, as applicable.

(d) *Addendum proceeding.* (1) A request for consequential damages or compensatory damages will be decided in an addendum proceeding.

(2) A judge may waive the requirement of paragraph (d)(1), either on his or her own motion or on the motion of a party, and consider a request for damages in a proceeding on the merits where the judge determines that such action is in the interest of the parties and will promote efficiency and economy in adjudication.

(e) *Initiation of addendum proceeding.*

(1) A motion for initiation of an addendum proceeding to decide a request for consequential damages or compensatory damages must be filed as soon as possible after a final decision of the Board but no later than 60 days after the date on which a decision becomes final. Where the initial decision in the proceeding on the merits was issued by a judge in a MSPB regional or field office, the motion must be filed with the regional or field office that issued the initial decision. Where the decision in the proceeding on the merits was an initial decision issued by a judge at the Board's headquarters or where the only decision was a final decision issued by the Board, the motion must be filed with the Clerk of the Board.

(2) A copy of a motion for initiation of an addendum proceeding to decide a request for consequential damages or compensatory damages must be served on the other parties or their representatives at the time of filing. A party

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may file a pleading responding to the motion within the time limit established by the judge.

(f) *Hearing; applicability of subpart B.* The judge may hold a hearing on a request for consequential damages or compensatory damages and may apply appropriate provisions of subpart B of this part to the addendum proceeding.

(g) *Initial decision; review by the Board.* The judge will issue an initial decision in the addendum proceeding, which shall be subject to the provisions for a petition for review by the Board under subpart C of this part.

(h) *Request for damages first made in proceeding before the Board.* Where a request for consequential damages or compensatory damages is first made on petition for review of a judge's initial decision on the merits and the Board waives the time limit for making the request in accordance with paragraph (a)(2) of this section, or where the request is made in a case where the only MSPB proceeding is before the 3-member Board, including, for compensatory damages only, a request to review an arbitration decision under 5 U.S.C. 7121(d), the Board may:

(1) Consider both the merits and the request for damages and issue a final decision;

(2) Remand the case to the judge for a new initial decision, either on the request for damages only or on both the merits and the request for damages; or

(3) Where there has been no prior proceeding before a judge, forward the request for damages to a judge for hearing and a recommendation to the Board, after which the Board will issue a final decision on both the merits and the request for damages.

(i) *EEOC review of decision on compensatory damages.* A final decision of the Board on a request for compensatory damages pursuant to the Civil Rights Act of 1991 shall be subject to review by the Equal Employment Opportunity Commission as provided under subpart E of this part.

§ 1201.205 Judicial review.

A final Board decision under this subpart is subject to judicial review as provided under 5 U.S.C. 7703.

APPENDIX I TO PART 1201 [RESERVED]

APPENDIX II TO PART 1201—APPROPRIATE REGIONAL OR FIELD OFFICE FOR FILING APPEALS

All submissions shall be addressed to the Regional Director, if submitted to a regional office, or the Chief Administrative Judge, if submitted to a field office, Merit Systems Protection Board, at the addresses listed below, according to geographic region of the employing agency or as required by § 1201.4(d) of this part. The facsimile numbers listed below are TDD-capable; however, calls will be answered by voice before being connected to the TDD. Address of Appropriate Regional or Field Office and Area Served:

1. Atlanta Regional Office, 401 West Peachtree Street, NW., 10th floor, Atlanta, Georgia 30308-3519, Facsimile No.: (404) 730-2767, (Alabama; Florida; Georgia; Mississippi; South Carolina; and Tennessee).

2. Central Regional Office, 230 South Dearborn Street, 31st floor, Chicago, Illinois 60604-1669, Facsimile No.: (312) 886-4231, (Illinois; Indiana; Iowa; Kansas City, Kansas; Kentucky; Michigan; Minnesota; Missouri; Ohio; and Wisconsin).

3. Northeastern Regional Office, U.S. Customhouse, Room 501, Second and Chestnut Streets, Philadelphia, Pennsylvania 19106-2987, Facsimile No.: (215) 597-3456, (Connecticut; Delaware; Maine; Maryland—except the counties of Montgomery and Prince George's; Massachusetts; New Hampshire; New Jersey—except the counties of Bergen, Essex, Hudson, and Union; Pennsylvania; Rhode Island; Vermont; and West Virginia).

3a. New York Field Office, 26 Federal Plaza, Room 3137-A, New York, New York 10278-0022, Facsimile No.: (212) 264-1417, (New Jersey—counties of Bergen, Essex, Hudson, and Union; New York; Puerto Rico; and Virgin Islands).

4. Washington Regional Office, 1800 Diagonal Road, Alexandria, Virginia 22314, Facsimile No.: (703) 756-7112, (Maryland—counties of Montgomery and Prince George's; North Carolina; Virginia; Washington, DC; and all overseas areas not otherwise covered).

5. Western Regional Office, 250 Montgomery Street, Suite 400, 4th floor, San Francisco, California 94104-3401, Facsimile No.: (415) 705-2945, (Alaska; California; Hawaii; Idaho; Nevada; Oregon; Washington; and Pacific overseas areas).

5a. Denver Field Office, 165 South Union Blvd., Suite 318, Lakewood, Colorado 80228-2211, Facsimile No.: (303) 969-5109, (Arizona; Colorado; Kansas—except Kansas City; Montana; Nebraska; New Mexico; North Dakota; South Dakota; Utah; and Wyoming).

6. Dallas Regional Office, 1100 Commerce Street, Room 620, Dallas, Texas 75242-9979,